IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 268 of 1998

Between:

D.V.Ramanaiah S/o.Dargaiah
R/o.Konijerla Post & Mandal Khammam Dist.

..... PETITIONER

AND

1 Industraial Tribunal- Cum- Labour Court Rep by its presiding Officer
Warangal.
2 The Depot Manager
APSRTC , Khammam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 1st respondent and issue an appropriate writ, order or Direction, particularly one in the nature of writ of Certiorari, and quash the Award in I.D.No.16 of 1994 Dt: 12-3-1996 , published on 15-6-1996, insofar as denying the back wages to the petitioner and treating the period from the date of suspension to the date of reinstatement as 'not on duty' as illegal, unjust , contrary to law and perverse; and grant all consequential benefits to the petitioner and pass such other order or orders.

Counsel For the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel For the Respondents: MRS. A. VYJAYANTHI

The Court Made the Following :

O R A L O R D E R:

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Aggrieved by the order passed in I.D.No.16 of 1994, dated 12.03.1996, published in the Gazette, dated 15.06.1996, on the file of the Industrial Tribunal-cum-Labour Court, Warangal, this writ petition is filed.

The facts of the case, in brief, are that the petitioner was appointed as Conductor in the Andhra Pradesh State Road Corporation, Khammam, and his services were regularized with effect from 1.1.1989. On 22.08.1992, while the petitioner was working in the bus bearing No.AAZ.5480, on the route Vallapuram, a check was conducted by the Divisional Enforcement Squad, Khammam, at stage No.4, at about 4 p.m., and on finding some cash and ticket irregularities on the part of the petitioner, a charge memo was issued to the petitioner. Basing on the passengers' statement, on 27.08.1992, the following charges were leveled against the petitioner by the officials of the respondent-Corporation:

1. *For having violated the rules 'Issue and start' which is a misconduct under Regulation No.28(XXXII) of APSRTC Employees (Conduct) Reg.1963.*

2. *For having collected fare of Rs.3/- from a batch of two passengers (i.e. Rs.1-50 ps. Each ticket) at Suvarnapuram itself and failed to issue tickets to them, who boarded the bus at Suvarnapuram stage No.5/4 and alighting at stage No.4(Laxmipuram) which is a mis-conduct under Reg.(XXXI) of APSRTC Employees (conduct) Reg.1963.*

3. *For having failed to close the ticket tray Nos. of all denominations upto stage No.4 though you are reached stage No.4 (Hence the TTIs have marked XXX in the SR) which is a misconduct under Reg.28(XXXii) of APSRTC Employees (conduct) Reg.1963"*

Charge No.1 was framed against the petitioner for violating the rule of

'Issue and Start', Charge No.2 was framed for not issuing the tickets to two of the passengers and charge No.3 was issued for not closing the ticket tray, till the time of the check. The case of the petitioner is that without considering the explanation submitted by him, the officials of the Corporation conducted an enquiry and placed the petitioner under suspension. Thereafter, without giving any cogent reasons, the officials found the petitioner guilty of the charges and removed him from service. As against the said order of removal, the petitioner raised industrial dispute before the Tribunal in I.D.No.16 of 1994. On considering the entire material on record, the Industrial Tribunal having come to the conclusion that the punishment imposed against the petitioner is disproportionate to the charges leveled against him, ordered his reinstatement, however, without back wages and to treat the period from suspension to reinstatement as not on duty.

Heard both sides.

So far as charge Nos.2 and 3 are concerned, the evidence of a co-passenger, who scribed the statement of passengers and examined during the course of enquiry, appears to be plausible and the contents of the statement of passengers was also attested by the Conductor under protest. Actually, three ticket-less passengers boarded into the bus between stages 5 and 4 and before reaching the 5^{th} stage. When the petitioner was demanding the said three passengers for actual fare of Rs.3-50 instead of Rs.3/-, the alleged check was conducted. In view of the above, I am of the opinion that the petitioner cannot be found fault with charges 2 and 3 and hence, the said act of the petitioner cannot be construed as misconduct. So far as the first charge of "issue and start" is concerned, the conductors are always expected to issue tickets to the passengers before the bus starts from the starting point and if there is any violation of the said rule, the same shall be construed as a mis-

conduct. In the instant case also, the petitioner did not issue the tickets before the bus started, but and started issuing tickets only when the bus was in movement. Hence, this Court is of the view that under Regulation 28 of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulations, 1963, the said action of the petitioner definitely amounts to misconduct. Though there are minor lapses on the part of the petitioner, he ought not to have been imposed the severe punishment of 'not on duty' for the period from 27.08.1992 to 26.6.1996 i.e., the date of suspension to the date of reinstatement for the reason that such minor lapses are happening day-in and day-out in APSRTC. At the same time, as there is mis-conduct on the part of the petitioner, he shall not be left free of the charges. Hence, I am not inclined to grant back-wages to the petitioner.

Accordingly, the writ petition is allowed in part, directing the respondents to treat the period of suspension till the date of reinstatement, i.e., from 27.08.1992 to 26.6.1992 as on duty.

With the above direction, the writ petition is disposed of. No costs.

22.06.2004

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….. ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.2CCs to the Standing Counsel for APSRTC.

2.2CD copies.

3. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Warangal

4) The Depot Manager, A.P.S.R.T.C., Khammam.

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 268 of 1998

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